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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,179	09/17/2003	Bradley D. Kolar	33836.03.0004	5569
30498	7590	08/26/2008		
ACCENTURE				
C/O VEDDER PRICE KAUFMAN & KAMMHOLZ, P.C.				
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CHICAGO, IL 60601				
EXAMINER				
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ART UNIT		PAPER NUMBER		
3623				
MAIL DATE		DELIVERY MODE		
08/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,179

Applicant(s)

KOLAR ET AL.

Examiner

JONATHAN G. STERRETT

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Currently **Claims 1-46** are pending. This **Non-Final Office Action** is responsive to 12 May 2008.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. The applicants arguments have been fully considered but are not persuasive.

3. the applicant argues that the cited references fail to teach "business goal rule data" and further where the business goal rule data correspond to a business organization's goals with respect to employee training.

The examiner respectfully disagrees.

The applicant alleges on page 16, quoting from Figure 10 of the specification of the instant application that the business goal rules are formulas that are applied to determine how the product courses fit within the organization's business goals.

However, there are a number of issues with this line of argument.

First, there's no positive recitation in the claim that the business goal rules are in fact formulas that are used to evaluate software. The claims cite that the evaluation is performed (i.e. a plurality of alignment values are generated) "based on the business goal rules". This reliance is indefinite because it is not clear how the generation is "based on the business goal rules". For purposes of examination, the examiner notes that Lawlis generates values for software evaluation that are as "based on business goal rules" as is claimed by the instant application.

For purposes of argument, let's assume that the formulas the applicant is relying on were in fact recited in the claims. Claim 10 shows this:

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EDUCATIONAL PRODUCT BREAKDOWN BY CONTENT AREA TABLE
USER WOULD MAP EACH EDUCATION PRODUCT HOURS TO THE CONTENT AREAS THE EDUCATIONAL PRODUCT COVERS

EDUCATIONAL PRODUCT ID	EDUCATIONAL PRODUCT TOTAL HOURS	CONTENT AREAS										FORMULAS	
		MEDIUM (2)			MEDIUM (2)			MEDIUM (2)			324		
		CUSTOMER CONTACT TRANSFORMATION	FINANCE & ACCOUNTING OUTSOURCING	HUMAN CAPITAL TRANSFORMATION	INFORMATION TECHNOLOGY OUTSOURCING	OPERATIONS BACK OFFICE SOLUTIONS	PROCUREMENT SOLUTIONS	INSIGHT DRIVEN MARKETING	ENTERPRISE SOLUTIONS ENTERPRISE RESOURCE PLANNING (ERP)	IT TRANSFORMATION	CIO FOCUSED TECHNOLOGY OFFERINGS	STRATEGIC PERFORMANCE ALIGNMENT VALUE (PAW DATA)	
THESE EDUCATIONAL PRODUCTS MAP TO THE SAME OFFERING (PRODUCT/SERVICES)													
FINANCIAL BASICS	8		4								4	8	$(8*1)+(4*1)(10*3)$
HOW FINANCE WORKS	16		8			4					4	12	$(8*1)+(4*1)+(4*1)(18*3)$
FINANCE IN OUR BUSINESS	24		4								20	24	$(4*1)+(20*1)(24*3)$
THESE EDUCATIONAL PRODUCTS MAP TO THE SAME PRODUCT AND SERVICES													
BILLING 101	16				8			8					$(8*1)+(8*1)(16*3)$
ACCOUNTS RECEIVABLE PRIMER	2				1			1					$(1*1)+(1*1)(2*3)$
INTRODUCTION TO BILLING SYSTEMS	40				10			10					$(10*1)+(10*1)(40*3)$
BEST PRACTICES FOR CUSTOMER BILLING	24				4			4					$(4*1)+(4*1)(24*3)$

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FIG. 10

Figure 10 is a table showing how scores in different areas are combined according to a weighted average scheme illustrated in the last column under "formulas". Furthermore

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the specification also notes that the "business rules" for scoring software is illustrated by the following section (para 56) of the specification:

[0056] The business goal rule data 18 may include, but is not limited to, stored formulas, functions, or other relationships as desired. In addition, business goal rule data 18 may include threshold data associated with costs, or any other strategic alignment categories. In this example, as shown in block 618, business goal rule data is used to generate the cost effectiveness alignment value and may be obtained by providing a cost threshold interface. The cost threshold interface 1100 (shown in FIG. 11) is presented on the display. The cost threshold interface cost thresholds for different types of educational products. For example, different types of educational products may include face-to-face course offerings, self-study course offerings, virtual course offerings or other different types of educational products. To illustrate, a user may enter the cost thresholds for three different cost thresholds for each given educational product type as shown in FIG. 11. By way of example, for a face-to-face classroom course, a user may determine that if course tuition data 332 falls within a range of 0 up to \$1,800.00, a corresponding cost score 1602 of 3 is associated therewith; whereas if a course tuition data 332 is between \$1,800.00 to \$2,100.00 an intermediate score of 2 is provided. The cost threshold input interface 1100 visually codes the corresponding cost score for given threshold ranges. This is done for a plurality of different types of educational products. This received business goal rule data is then stored for comparison to actual costs of educational products being evaluated.

What is being discussed above is that in scoring, the business goal rule data sets forth how, for example, if tuition falls within a certain range, that a score of "2" is given. What is being described is a set of rules for scoring (i.e. business goal rules) where scores are given based on certain thresholds being applied.

What does Lawlis teach in terms of scores being applied? On page 58 column 2 para 2 Lawlis teaches that it is necessary to apply the same set of standards to evaluate products so that meaningful comparisons can be made. Lawlis is explicit that the same set of standards must be applied by the same evaluator to the same product to ensure that products are judged according to the same set of standards. While this section of Lawlis could be interpreted to imply that there should be a set of scoring rules in the same way that that applicant's own specification defines rules (i.e. a set of thresholds for determining what scores are), this section of Lawlis stops short of actually suggesting thresholds in the context of rules for determining scoring. However, reading Lawlis further it is shown on page 59 column 1 para 3 the section:

Based on user inputs, analysts assign numerical weights ranging from 0 to 10 to each requirement to distinguish levels of importance. The more important a requirement, the higher its number. Because the weights are estimates, only single digits of precision are used. Analysts also assign numerical values to each requirement indicating the breadth of coverage for the candidate products. Requirements receive a 1 for full coverage, 1/2 for partial coverage, and 0 for no coverage.

The last sentence indicates that Lawlis teaches a threshold scheme (i.e. rules being applied for scoring) that provide scores (e.g. a 0, 1 or ½) based on thresholds being applied to the particular attribute that is being evaluated and scored.

So, not only does Lawlis teach business goal rule data for generating values for evaluating software, Lawlis teaches the application of that business goal rule data in the same way that is disclosed in the applicant's own specification. Even if the applicant claimed what is being disclosed in their specification regarding the functionality of how the business goal rule data is used to generate values (and the applicant does not claim this, only that the values are "based on" the stored business goal rule data - this is so broad as to be certainly taught by Lawlis as shown above), then this would also be taught by Lawlis.

The applicant argues that Lawlis fails to teach where the business goal rule data corresponding to an organization's goals with respect to employee training.

The examiner respectfully disagrees.

There's nothing in the claims that distinguishes in how the data being stored as rules patentably distinguishes over Lawlis. As shown above the functionality of the rules for scoring and generating values functions exactly the same as Lawlis. In further response to this argument, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Additionally, the examiner notes that the terms used in the claims to label the values generated for scoring are nonfunctional data labels. Calling a value a "strategic alignment value" does not distinguish over Lawlis evaluation of whether and how a

software product performs on a platform because the method steps are the same in how the data is processed (*see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* ' 2106).

The applicant argues that the rejection of Claim 1 under the same rationale as that of Claim 5 is improper since Claim 1's limitations are not addressed by the rejection of Claim 5.

The examiner disagrees.

Claim 1 and contains the limitation "analyzing the educational product". The generating of values, as addressed in claim 5, provides for an analysis of the software product.

The applicant argues that the rejection of the Claim 31 contains recitation of an apparatus comprising a processing device, memory containing executable instructions that when executed perform the method steps of storing business goal rule data, etc., and that the rejection based on a similar rationale is not proper.

The examiner respectfully disagrees.

First, the Office Action took Official Notice that it is old and well known to perform the method steps of Lawlis on a computer. Since the Official Notice is not traversed, then it is taken to be admitted prior art. (Effectively traversing an

Secondly, automating steps, including using a computer apparatus, does not distinguish over the prior art, when those steps are taught as being manually performed (in *Re Venner*).

The examiner further notes that the rejection of the claims is made under an obviousness rejection. Performing method steps, however recited, using a computer processor, software, etc., does not distinguish over the prior art, when the prior art teaches the same method steps. The examiner's rejection is that performing the method steps of Claims 31 and 43 are obvious variations of Claim 5. The applicant's argument that it is not obvious to perform these method steps using a computer does not effectively traverse the Official Notice that performing a method steps using a computer is old and well known because this attempted traversal does not provide evidence why doing so is not old and well known. The subject of the Official Notice is therefore taken to be admitted prior art. Please see the MPEP 2144.03 [R6] B "To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.").

The applicant argues with respect to Claim 11 that the cited references fail to teach the claimed limitations of a strategic alignment value is based on a strategic importance priority level data of an educational content area an on at least course hours for the educational products associated with the educational content area.

The examiner respectfully disagrees.

The claim recites three different scores being calculated, a strategic importance alignment value, a cost effectiveness alignment value and an educational product alignment value. These values are based on two subcategories of values. Lawlis teaches at least three different scores being calculated that are based on a composite of subscores (i.e. at least two different subscores – see Figure 4 No C on page 62). The examiner notes that the labels for these scores are nonfunctional data labels – they do not distinguish over the prior art since Lawlis teaches at least three different output values for scoring a software product.

The inputs for theses scores (i.e. they are based on) are:

Strategic alignment value is based on:

Strategic importance priority level data (Lawlis p60 Figure 3, performance on a platform, i.e. strategic alignment with a particular platform)

Course hours (Howard p61 para 2, p58 para 3, course hours used to measure how much time is spent on a particular subject as a measure of the importance of that subject).

Cost effectiveness alignment value is based on:

Number of hours per educational product (Howard, p59 para 2, the need of nurses to spend more time in educational programs for a specific course – here it is in substance abuse training).

A cost of the educational product (Lawlis p61 col 1 para 2, cost inputs evaluating product software) also Murphy page 624 para 1 cost effectiveness as to rating of software products).

Educational Product Impact Alignment value is based on:

Participant rating data (Lawlis p60 Figure 3 Evaluators 1-N rating of requirements))

Usage data associated with the educational product (Lawlis p60 Figure 3, usage data, e.g. "value of online help" is usage of the online help and associated rating).

The term "strategic alignment value" is a data label and does not add patentable weight to the claim. Additionally, the claim recites that this value is "based on" two other aspects, i.e. it is a composite score. Functionally and structurally, Lawlis at least teaches a score that is a composite of two other scores (i.e. it is based on them - see page 60 column 2 para 1, here a weighted score is calculated, i.e. is based on, the combination of at least two other scores.

Lawlis teaches the functional and structural input of what is claimed, however, not the specific data, i.e., the recited method steps would be performed the same

regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP* ' 2106

However, the examiner has further shown that even the specific data being claimed is shown to exist and the art, and would provide a predictable result since including the known content of course hours and hours per educational product would, in combination with Lawlis teachings regarding evaluation of software, provide a predictable result, since the result is a numerical output of known numerical ratings.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. **Claims 1-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 1, 5 and 21 are directed toward the statutory category of a process. In order for a claimed process to be patentable subject matter under 35 U.S.C. § 101, it must either: (1) be tied to another statutory class (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or materials) to a different state

or thing. See *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method/process is not patentable subject matter under § 101. Thus, to qualify as a statutory process under § 101, the claim should positively recite the other statutory class to which it is tied (e.g. by identifying the apparatus that accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g. by identifying the material that is being changed to a different state).

Here, the claimed invention does not transform underlying subject matter to a different state or thing because it merely creates and implements a business model and adjusts reward structures based on performance. Furthermore, the claimed process is not tied to another statutory category, such as a particular apparatus. The claimed invention of selecting objectives, creating and implementing a business model, measuring performance, and rewarding employees for good performance is capable of being carried out entirely by the human mind. Thus, it is not tied to another statutory category and is not patentable under § 101.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 USC. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-10, 13-20, 31-33 and 43-46** are rejected under 35 USC. 103(a) as being unpatentable over **Lawlis**, et al.; "A Formal Process for evaluating COTS Software Products", (C) 2001 IEEE, Computer, pp.58-63 (hereinafter **Lawlis**)

Regarding **Claim 5**, Lawlis teaches

An educational product evaluation method comprising:

Page 58 column 1 para 1,

storing business goal rule data;

Page 58 column 1 para 3-4, the RCPEP is a stored evaluation technique for evaluation of COTS software products.

generating a plurality of educational product alignment values for each of a plurality of educational products, based on a plurality of associated plurality of educational product evaluation category values and the stored business goal rule data;

page 60 Figure 2, values for a plurality of products are generated, based on a plurality of categories and the rules for applying those categories to the products.

generating, for each educational product of interest, an overall business alignment value based on the plurality of educational product alignment values;
and

page 60 Figure 2, the sum total of each of the plurality of scores (i.e. an overall value) based on the single values.

generating an educational product summary containing at least the overall business alignment value for each of the plurality of educational products.

Page 60 Figure 2, the product summary scores for products A, B thru Z (bottom of table) is generated for each product.

Lawlis does not teach where the business goal rule data corresponds to a business organization's goals with respect to employee training. However, the recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ' 2106.

Official Notice is taken that it is old and well known in the art for business organization's to have goals with respect to training.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lawlis to include measuring educational products based on goals that an organization has with respect to training, because it would have provided a predictable result through evaluating software products against an organization's goals for training.

Regarding **Claim 6**, Lawlis teaches

The method of claim 5 wherein storing the business goal rule data includes storing data representing rules defined for a plurality of desired business goals wherein the business goal rule data represents at least one of: a strategic importance level, a cost effectiveness level and an educational product impact level.

Figure 2, "Runs on appropriate platform" is a strategic importance level.

Regarding **Claim 7**, Lawlis teaches

The method of claim 5 including generating the educational product summary to contain the plurality of educational product alignment values corresponding to each of the plurality of educational products.

Page 60 Figure 2, the summary contains the product alignment values corresponding to each of the products A, B...Z.

Regarding **Claim 8**, Lawlis teaches

The method of claim 7 including presenting the educational product summary for a user.

Figures 2 and 4 teach presenting the product summary to a user.

Regarding **Claim 9**, Lawlis teaches

The method of claim 5 including generating the plurality of educational product alignment values for each of a plurality of educational products based on received weighting values associated with each of the plurality of educational product alignment values.

Page 60 figure 3, each of the ratings assigned to particular metric (i.e. product alignment values) is based on importance weightings for each of the individual metrics.

Regarding **Claim 10**, Lawlis teaches

The method of claim 5 wherein generating the plurality of educational product alignment values for each of a plurality of educational products includes generating a strategic importance alignment value, a cost effectiveness alignment value and an educational product impact alignment value.

Page 60 Figure 2, "runs on appropriate platform", i.e. a strategic importance alignment value; "Supports appropriate configurations", i.e. a cost effectiveness alignment value; and "Online Help Context Sensitive", i.e. an educational product impact value.

Regarding **Claim 13**, Lawlis teaches

The method of claim 5 wherein storing the business goal rule data includes providing a cost threshold input interface operative to receive cost thresholds for different types of educational products.

Page 59 column 1 para 1 and 2, the entering of data into a matrix for scoring (i.e. an interface for receiving data).

Regarding **Claim 14**, Lawlis teaches

The method of claim 5 wherein storing the business goal rule data includes providing an educational product time input interface operative to receive time threshold data for different types of educational products.

Page 59 column 1 para 1 and 2, the entering of data into a matrix for scoring (i.e. an interface for receiving data).

Regarding **Claim 15**, Lawlis teaches

The method of claim 10 including generating a cost effectiveness alignment value matrix containing at least description data relating to different cost scores and different corresponding time scores.

Page 60 column2 – the use of a matrix shows how different scores in different categories (i.e. cost and time) relate to each other.

Regarding **Claim 16**, Lawlis teaches

The method of claim 7 including generating the education product summary to include corresponding description data for each educational product and for each educational product alignment value for each educational product.

Page 62 Figure 4, the legend in the chart describes description data (i.e. product names) and illustrates the value for each chart.

Regarding **Claim 17**, Lawlis teaches

The method of claim 5 including generating an overall business alignment value range graphic element containing sub ranges corresponding to different degrees of alignment with corresponding business goal rule data.

Figure 4(a), a graphic element with subgroups containing different degrees of alignment with the subrankings.

Regarding **Claim 18**, Lawlis teaches

The method of claim 5 including generating a graphic element illustrating educational product penetration compared to a group of educational products.

Figure 4(c), the different products are compared to each other with respect to various criteria.a

Regarding **Claim 19**, Lawlis teaches

The method of claim 5 including generating an educational product content redundancy map indicating which educational products include subject matter that is pertinent to multiple strategic subject categories.

Figure 4-c, shows which products include various subject matter rankings, i.e. pertinent to multiple strategic subject categories.

Regarding **Claim 20**, Lawlis teaches

The method of claim 10 wherein generating the educational product summary includes providing a graphic element representing the educational product summary including visual coding of the strategic importance alignment value, the cost effectiveness alignment value and the educational product impact alignment value.

Figure 4, the shading of the graph elements provides visual coding of the various categories being ranked.

Claims 1-4, 31-33 and 43-46 recite similar limitations to those addressed by the rejection of **Claims 5-10 and 13-20**, and are therefore rejected under the same rationale.

Furthermore regarding **Claims 31-33 and 43-46**, Lawlis teaches the limitations recited by the apparatus, however Lawlis does not explicitly teach the method being performed on a computer apparatus with memory and various generators as claimed.

However, Official Notice is taken that it is old and well known to perform method steps, such as taught by Lawlis using a computer. This makes the method steps faster and more efficient, since they are running on a computer.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Lawlis to include performing the method steps on a computer, since it would make the performance of these steps faster and more efficient since they are running on a computer.

4. **Claims 11, 12, 21-30, 34-42** are rejected under 35 USC. 103(a) as being unpatentable over **Lawlis** in view of **Murphy**, Cheryl; "An evaluation format for "open" software tools", 1995, Computers in Human Behavior, v11, No. 3-4, pp.619-631, (hereinafter **Murphy**) and further in view of Matthew Owen Howard, R Dale Walker, Patricia Silk Walker, Richard T Suchinsky; "Alcohol and drug education in schools of nursing", Journal of Alcohol and Drug Education. Lansing: Spring 1997. Vol. 42, Iss. 3; pg. 54, 27 pgs, (hereinafter **Howard**)

Regarding **Claim 11**, Lawlis teaches using a composite scoring system to rate a software product using various input values, as discussed above, and Lawlis teaches:

The method of claim 10 wherein;
the educational product impact alignment value is based on at least
participant rating data and usage data associated with the educational product

Lawlis further teaches a strategic importance alignment value based on a strategic importance priority level data of an educational content area (see page 60 Figure 3 – adequacy of specific analysis is data of an educational content area).

Lawlis does not teach where the input values are based upon
course hours for the educational products associated with the educational content area
the cost effectiveness alignment value is based on at least a number of hours per educational product and a cost of the educational product; and

Murphy teaches where the cost of a product as an input factor is important when rating a product (page 624 para 1 under "Cost Effectiveness").

Murphy teaches on page 1 that considering cost is important when considering a software product for higher education (page 619 para 1). Murphy addresses rating software thus Murphy and Lawlis are analogous art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Lawlis to include rating software based on cost, as taught by Murphy, because it would improve the software rating by taking into account a cost evaluation as an input factor.

Lawlis and Murphy do not teach using course hours associated with the educational content and number of hours per educational product as a rating input.

However, the idea of associating course hours with educational content is old and well known as a rating or measuring input as shown by Howard. Howard teaches the using of course hours associated with educational content as a way to measure the importance of the course in a student's overall curriculum (see page 59 para 2, the amount of time, i.e. course hours, is used to measure the proportion of time spent in teaching. The use of hours to measure the importance of an instructional course provides a predictable result because it is used in comparison to the total number of hours of instruction.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Lawlis and Murphy, regarding measuring the cost of an educational software product to include where the measurement is based on the a number of hours per educational product and course hours for the educational products associated with the educational content area, because it would include a known way of measuring educational aspects by taking into account the hours spent on those educational aspects and thus provide a predictable result through the application of a known metric known in the art.

Regarding **Claim 12**, Lawlis teaches

The method of claim 11 including presenting a content area importance table that visually differentiates each strategic importance priority level data for each educational content area.

Page 60 Figures 2 and 3 visually differentiate the data for each software rating area.

Claims 21-30 and 34-42 recite similar limitations to those addressed by Lawlis above, and are therefore rejected under the same rationale.

Furthermore regarding **Claims 34-42**, Lawlis teaches the limitations recited by the apparatus, however Lawlis does not explicitly teach the method being performed on a computer and using software.

However, Official Notice is taken that it is old and well known to perform method steps, such as taught by Lawlis using a computer and software. This makes the method steps faster and more efficient, since they are running on a computer and encoded in a software program.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Lawlis to include performing the limitations on a

computer with software, since it would make the performance of these steps faster and more efficient since they are running on a computer.

Furthermore regarding, Lawlis does not explicitly teach a computer interface per se and a display that presents the output information.

However, Official Notice is taken that providing these elements on a computer are old and well known for the purpose of making the interface with the computer easy to use.

It would have been obvious to modify the teachings of Lawlis to include where the performance of his various steps include a display and interface for entering and seeing the result of the data processing, because it would make the interaction with the computer in performing of the method steps easy to use.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 8-20-08

/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623

